

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                           |   |                      |
|---------------------------|---|----------------------|
| TINA SOHN,                | ) |                      |
| Plaintiff,                | ) |                      |
|                           | ) |                      |
| v.                        | ) | CA. No. 04-12348-MLW |
|                           | ) |                      |
| MORGAN STANLEY, DW, INC., | ) |                      |
| CARL CHAPUT AND BEN       | ) |                      |
| FIRESTEIN                 | ) |                      |
| Defendants.               | ) |                      |

ORDER

WOLF, D.J.

February 3, 2005

For the reasons described in court on February 3, 2005, this case was improperly removed. A case may only be removed to federal court if it could have been brought originally in federal court. See 28 U.S.C. §1441(a); see also American Policyholders Ins. Co. v. Nyacol Prods., Inc. 989 F.2d 1256, 1258 (1<sup>st</sup> Cir. 1993).

Defendants' Notice of Removal (Docket No. 1) states that the case is removable under 28 U.S.C. §1441(a) as an action in which the court has original jurisdiction under 28 U.S.C. §1332, due to the diversity of the parties. However, diversity jurisdiction does not exist in this case because there is not complete diversity between the parties. "When a plaintiff sues more than one defendant in a diversity action, the plaintiff must meet the requirements of the diversity statute for *each* defendant or face dismissal. Newman-Green, Inc. v. Alfronzo-Larrain et al, 490 U.S. 826, 829 (1989) (quoting Strawbridge v. Curtiss, 7 U.S. 267 (1806)). Here, both the Notice of Removal and Sohn's complaint allege that Sohn is a

citizen of New York, and also that two of the defendants, Morgan Stanley DW, Inc.,<sup>1</sup> and Ben Firestein, are citizens of New York. Therefore, complete diversity does not exist between the parties and removal is impermissible.

Accordingly, it is hereby ORDERED that this case is REMANDED to the Superior Court of the Commonwealth of Massachusetts for Suffolk County, pursuant to 28 U.S.C. §1447(c).

/s/ MARK L. WOLF  
UNITED STATES DISTRICT COURT

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<sup>1</sup> Both the Notice of Removal and Sohn's complaint state that Morgan Stanley DW, Inc. has its principal place of business in New York, New York. It is, therefore, a citizen of New York. See 28 U.S.C. §1332(c)(1).